

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

SHELIA SPEARMAN DOCKET NO. _____
VERSUS JUDGE _____
WAL-MART LOUISIANA, LLC MAGISTRATE JUDGE _____

NOTICE OF REMOVAL AND JURY DEMAND

NOW INTO COURT, through undersigned counsel, comes WAL-MART LOUISIANA, LLC, a Delaware limited liability company, defendant in the above entitled cause, and appearing solely for the purpose of presenting this Notice of Removal of the above entitled cause to this Honorable Court under the provisions of 28 U.S.C. § 1441, *et seq.*, and reserving all rights, respectfully show as follows:

1.

This suit was filed by plaintiff, SHELIA SPEARMAN (“plaintiff”), in the First Judicial District Court, Caddo Parish, Louisiana, on the 24th day of June, 2019. Defendant was served in the case on July 19, 2019. An Answer was filed on behalf of defendant in the state court proceeding on July 31, 2019.

2.

Defendant now files this Notice of Removal and Jury Demand.

3.

Defendant alleges that plaintiff is a resident, citizen, and domiciliary of the State of Louisiana.

4.

This action is of a civil nature at law. At the time plaintiffs' Petition was filed, defendant Wal-Mart Louisiana, LLC was and is now a Delaware limited liability company. The sole member of Wal-Mart Louisiana, LLC is Wal-Mart Stores East, LP, a Delaware limited partnership. The general partner of Wal-Mart Stores East, LP is WSE Management, LLC, a Delaware limited liability company. The limited partner of Wal-Mart Stores East, LP is WSE Investment, LLC, a Delaware limited liability company. The sole member of both WSE Management, LLC and WSE Investment LLC is Wal-Mart Stores East, LLC. The sole member of Wal-Mart Stores East, LLC is Wal-Mart Stores, Inc., a Delaware corporation with its principal place of business located in the State of Arkansas.

5.

Defendant is diverse from plaintiff.

6.

In her Petition for Damages, plaintiff alleges that she was injured when she slipped and fell at the Wal-Mart store on Northport Blvd. in Shreveport, Louisiana.

7.

Plaintiff alleges that due to the accident she was injured.

8.

In her petition, plaintiff does not describe what injuries she sustained in the accident or what treatments she received.

9.

Plaintiff also alleges that she will incur past, present and future physical pain and suffering, and anguish, mental anguish, loss of enjoyment of life, disfigurement and disability, medical expenses, lost wages, and loss of earning capacity.

10.

Defendant avers, however, that such allegations are typical in personal injury cases and do not indicate the severity of plaintiffs' true injuries. Moreover, plaintiff did not allege any specific injuries, nor did she allege the amount of any medical bills incurred or needed for any surgery.

11.

Consistent with Louisiana law, plaintiff does not allege any specific monetary amount for the value of the claims made in her Petition. Nothing on the face of plaintiff's petition in state court suggested the value of their claims exceeded \$75,000.

12.

On June 10, 2020, defendant received medical bills and records from LSU Medical Center concerning a recent ankle and leg surgery and her costs incurred for her treatment, which occurred in May 2020. The bills show that the total surgeries and other costs that she has incurred for treatment related to her accident are now more than \$39,000, with some additional bills having been incurred, but not yet received.

13.

The amount in controversy in this suit now exceeds \$75,000.00, since plaintiff has already incurred more than \$39,000 in medical expenses for her surgeries and medical treatments, plus additional medical expenses that will be incurred in the future.

14.

During the time that this matter was pending in the First Judicial District Court, defendant had no basis to believe that the value of plaintiff's claim met the jurisdictional threshold of this Court.

15.

The receipt of the medical records and bills on June 10, 2020, was defendant's first notice that this case became removable, and defendants file this Notice of Removal within 30 days of the receipt of these bills and records.

16.

Pursuant to 28 USC § 1446(b), this Notice of Removal is timely because plaintiff's bills and records, constitutes an "other paper from which it was first ascertained that the case is one which is or has become removable," and the Notice of Removal is filed within one year after the commencement of this action.

17.

This Court has jurisdiction of this cause of action under 28 USC § 1332.

18.

The proper court for removal is the United States District Court for the Western District of Louisiana, Shreveport Division.

19.

Defendant files as Exhibit A herewith copies of the entire record in the district court, which consists of the following:

- (1) Petition;
- (2) Citation to Wal-Mart Louisiana, LLC
- (3) Service of Process Transmittal;
- (4) Answer to Petition for Damages and Jury Demand; and,
- (5) Request for Notice of Trial and Judgment.

20.

Defendant further shows unto the Court that immediately upon the filing of this Notice of Removal, a copy of same shall be served upon all adverse parties and a copy filed with the Clerk of the First Judicial District Court, Caddo Parish, Louisiana, all in accordance with 28 USC § 1446(d).

21.

Defendant is entitled to and requests a trial by jury in this matter.

Shreveport, Louisiana, this 18th day of June, 2020.

BLANCHARD, WALKER, O'QUIN & ROBERTS
(A Professional Law Corporation)

By: /s/ Scott R. Wolf
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ATTORNEYS FOR DEFENDANT,
WAL-MART LOUISIANA, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Notice of Removal has this date been served upon the following by placing same in the United States Mail, postage paid:

Honorable Mike Spence
Caddo Parish Clerk of Court
Caddo Parish Courthouse
501 Texas Street, Room 103
Shreveport, Louisiana 71101

Kristen B. Bernard
DUDLEY DEBOSIER INJURY LAWYERS
4300 Youree Drive, Suite 250
Shreveport, LA 71105

Shreveport, Louisiana, this 18th day of June, 2020.

/s/ Scott R. Wolf
OF COUNSEL